

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

**LENWARD STATHAM,
Plaintiff**

v.

**UNITED SALES & LEASING
COMPANY, INC., HAYLOR, FREYER &
COON, INC., and ALAN NESTA,
Defendants**

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File No. 1:05-CV-88

RULING ON MOTIONS FOR RULING ON MEASURE OF DAMAGES

(Papers 76, 77 and 100)

On August 1, 2006, a motions hearing was conducted and the Court reserved ruling on various parties' Motions for Ruling on Measure of Damages.

After further review of the pleadings, motions and memoranda regarding the issue of damages, the Court finds as follows:

1. Plaintiff's complaint against United Sales & Leasing Company, Inc. (Path) alleges reckless, negligent and intentional conduct, by forging plaintiff's signature to a cancellation notice sent to defendant Haylor Freyer & Coon, Inc. (Haylor). Plaintiff requests damages for the loss of his property, lost profits and other damages resulting from his inability to use his truck. He also seeks punitive damages.
2. Plaintiff alleges negligence claims against defendants Haylor and Alan Nesta. During the course of the hearing, summary judgment was granted in favor of defendant Transportation Insurance Services, Inc. and it has been dismissed as a defendant.

3. The Court ordinarily would agree with defendants Path and Haylor that if they were found to have breached their contractual duties with the plaintiff, damages would be limited to consequential damages. However, if plaintiff is successful in proving intentional or perhaps negligent conduct by Path or Haylor, he may be entitled to damages ordinarily awarded in tort actions, including punitive damages.

4. At this stage of the litigation, the Court declines to rule on the measure of damages. Accordingly, the motions by defendants Path and Haylor (Papers 77 and 100) are DENIED without prejudice to renew prior to trial. The motion filed by defendant Transportation Insurance Services, Inc. is DENIED as moot.

SO ORDERED.

Dated at Rutland, in the District of Vermont, this 13th day of September, 2006.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge